Court No.3

Criminal Revision No. 980/2001
(Old No. 316/1991)

Sri Ram Katori …Revisionist.

Versus

Chinma and two others .. Respondents.

Hon'ble Irshad Hussain, J.

None appear for the revisionist. Heard learned A.G.A. and perused the record.

This criminal revision under section 397/411 I.P.C. is directed against the judgment and order dated 21.11.1990 passed by the Additional Sessions Judge in criminal revision No. 414/1989; Chimna Vs. State of U.P. and another whereby the said revision was allowed and the order dated 7-6-1989 of taking cognizance against the revisionist and others for offence under section 302/34 I.P.C. by the then learned Chief Judicial Magistrate, Saharanpur in case No. 585/ 1987, was set aside.

The reason to set aside the order of the learned Magistrate was that in regard to the incident of murder of Lahori Singh the police had investigated the case and filed charge sheet against his wife Smt. Ram Katori and her so called paramour Ram Swaroop. On the charge sheet the cognizance was taken and the case was committed to Sessions for trial of the offence against these two accused. The sessions trial No. 362 of 1986 was registered and after recording of the relevant evidence the same was disposed of on merit by the V-Additional Sessions Judge Saharanpur, per judgment and order dated 5.1.1988 and these two accused were acquitted of the charges framed against them.

Lateron one of the said accused Smt. Ram Katori filed a criminal complaint against the three respondents namely Chimna, Kalu Ram and Mangat Singh alleging that the murder of her husband had been committed by them. After recording the relevant evidence in the proceeding under Chapter XV of the Code of Criminal Procedure, the learned Magistrate was of the view that there was prima facie case to proceed against these three respondents for offences punishable under section 302/34 I.P.C. in relation to the murder of above named Lahori Singh. The order of taking cognizance and summoning these respondents was passed on 7-6-1989. Aggrieved, Chimna preferred a

criminal revision before the learned Sessions Judge which was numbered as 414 of 1989 Chimna Vs. State and Smt. Ram Katori and the same was heard on merit and decided per judgment and order dated 21.11.1990 by the then Additional Sessions Judge Roorkee. The learned Sessions Judge allowed the revision and set aside the order of taking of cognizance and summoning of the respondents by the learned Magistrate on the ground that after investigation the charge sheet was submitted against two accused who have been acquitted after a fair trial and also that no application under section 319 of the Code of Criminal Procedure was then moved to proceed against these respondents also for commission of the crime of murder of Lahori Singh. The reasonings given by the learned Sessions Judge are perfectly just and warranted from the facts and circumstances of the case. No useful purpose would have served to put these respondents to trial in respect of which the charge sheet had been submitted by the police after investigation and the accused named there in were acquitted.

In view of above the judgment and order of the learned Sessions Judge was perfectly just and proper and considering this there is no merit in this revision and the same is liable to be dismissed. The revision is hereby dismissed.

(Irshad Hussain, J.)

Dated 27-9-2003

ISB